

रजिस्टर्ड नं० पी० 461.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 4 जुलाई, 1973/13 आषाढ़, 1895

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 15th June, 1973

No. 6-63/68-L. R.—The Himachal Pradesh Fruit Nurseries Registration Bill, 1973 (Bill No. 16 of 1973) after having received the assent of Governor, Himachal Pradesh, on the 9th June, 1973, under Articles 200 of

the Constitution of India, is hereby published in the Rajpatra Himachal Pradesh as Act No. 15 of 1973.

JOSEPH DINA NATH,
Deputy Secretary.

Act No. 15 of 1973.

**THE HIMACHAL PRADESH FRUIT NURSERIES
REGISTRATION ACT, 1973**

AN

ACT

to provide for the registration of fruit nurseries in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Fruit Nurseries Registration Act, 1973.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

Short title,
extent and
commence-
ment.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “competent authority” means a person or authority appointed by the State Government, by notification, to perform the functions under this Act;

(b) “Director” means the Director of Horticulture, Himachal Pradesh;

(c) “inspecting officer” means any officer not below the rank of Horticultural Inspector or Plant Protection Inspector authorised by the Director of Horticulture, for the purpose of inspection of nurseries;

(d) “notification” means a notification published in the Official Gazette;

(e) “nurseryman” means any person engaged in the production and sale of fruit plants;

(f) “Official Gazette” means Rajpatra, Himachal Pradesh;

(g) “plant material” means any propagation material used in raising the plant and includes budwood, scion, root-stock, seeds and cuttings;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “root-stock” means the fruit plant or part thereof on which any fruit plant has been grafted or budded;

(j) “scion” or “budwood” means the part of the plant which is used for grafting or budding a root-stock or tree;

(k) “State Government” means the Government of Himachal Pradesh.

3. No nurseryman who owns and possesses a nursery shall engage in the production and sale of nursery plants or plant material without getting himself or his firm registered with the competent authority and without obtaining a licence, in the form prescribed.

Registration
and licence

Note.—Where the nurseryman has more than one fruit nursery in different towns and villages, he shall have to obtain a separate licence in respect of each such fruit nursery.

application
or, and
grant and
refusal of
licence.

4. (1) Every application for a licence under section 3 shall be made to the competent authority and shall be in the prescribed form.

(2) Subject to such conditions and restrictions as may be prescribed, if the competent authority is satisfied that—

- (a) the fruit nursery is suitable for the proper propagation of the fruit plants in respect of which licence has been applied for;
- (b) the applicant is competent to conduct or establish any such fruit nursery;
- (c) he fulfills any other conditions notified by the competent authority in this behalf; and
- (d) the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security, if any;

such authority may grant a licence to the applicant for conducting or establishing a fruit nursery in accordance with the terms of the licence and the provisions of this Act and the rules thereunder.

(3) Every licence granted under this section shall be valid for a period of 3 years from the date of its issue and it may be renewed from time to time on payment of such fee, in such manner and the fulfilment of such conditions as may be prescribed.

(4) If the competent authority refuses to grant or renew a licence under this section, it shall record its reasons for such refusal in writing and communicate a copy of its order to the applicant.

suspension
or cancell-
ation of
licence.

5. (1) The competent authority may suspend or cancel any licence granted or renewed under section 4—

- (a) if the licensee has applied to be adjudicated, or been adjudicated an insolvent, or
- (b) if he has parted, in whole or in part, with his control over the fruit nursery, or
- (c) if he has ceased to conduct or possess such fruit nursery, or
- (d) if in the opinion of such authority he has become incompetent to conduct or possess such fruit nursery, or
- (e) if he has contravened, or failed to comply with any of the terms of the licence or any of the provisions of this Act or the rules thereunder, or
- (f) if he has refused to surrender or produce his licence or the registers and other record required to be maintained under this Act or the rules thereunder to the competent authority or any person authorised by it, or
- (g) on any other prescribed ground.

(2) Before passing an order under sub-section (1) the competent authority shall intimate to the licensee the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against it.

(3) The competent authority may suspend the licence pending the passing of a cancellation order in respect thereof under sub-section (1).

(4) A copy of every order passed under sub-section (1) or sub-section (3) shall be communicated to the licensee.

Return of
licence.

6. On the expiry of his licence or on the receipt of an order suspending or cancelling it, the licensee shall return the licence to the competent authority:

Provided that such authority may, after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the nurseryman to enable him to wind up his fruit nursery.

7. If a licence granted or renewed under section 4 is lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of the prescribed fee, issue a duplicate licence.

Issue of duplicate licence.

8. (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence under this Act may appeal in such form and manner, within such period and to such authority as may be prescribed:

Appeals.

Provided that the appellate authority may admit an appeal after the prescribed period, if sufficient cause is shown.

(2) The appellate authority may, after hearing the appellant, pass such orders on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the provisions of section 9 be final.

9. (1) The State Government may, on the application of any person aggrieved by an order passed under this Act, at any time, for the purpose of satisfying itself as to the legality or propriety of such order, call for and examine the record of the case and may pass such orders thereon as it thinks fit:

Revision.

Provided that the State Government shall not exercise the powers under this section, in respect of an order against which an appeal preferred under section 8 is pending or in case an appeal has not been preferred, before the expiry of the time limit therefor.

(2) An order passed under this section shall be final.

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10. (1) A registered nurseryman or firm of nurserymen shall utilize only such plant material in respect of scion and root-stock for propagation as may be recommended, from time to time, by the State Government.

Plant material to be utilized for propagation.

(2) A registered nurseryman or firm of nurserymen shall have progeny, trees of the good pedigree and their number should justify the plants propagated subject to the minimum limit of twenty-five trees.

11. A registered nurseryman or firm of nurserymen shall maintain a complete record of the origin or source of the root-stock, scion, budwood and shall produce the record for inspection on demand by the Director or an inspecting officer.

Record as its inspection.

12. The nursery plots as well as the plants and trees used for the production of nursery plants and trees shall be kept free from such insects, pests and diseases as may be prescribed.

Plots and trees to be kept free from insects, pests and diseases.

13. (1) The inspecting Officer may inspect the nurseries from time to time, to ensure that the nursery plots, plants and trees used for the production of nursery plants and trees are kept free from insects, pests and diseases, and may direct the nurseryman to remove and destroy infected or infested plants or trees within the prescribed period.

Inspection of nurseries.

(2) The nurseryman shall on a receipt of such direction in writing remove and destroy such plants or trees within the prescribed period.

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14. (1) A package or container containing the plant or plants shall be distinctly labelled to designate the kind and variety sold.

Packages and their labelling.

(2) In case the package or container contains plants of more than one kind and variety, each individual plant shall be labelled.

(3) The name of root-stock and the scion shall be mentioned on label.

Maintenance of register.

15. (1) Each nurseryman shall maintain a register in the prescribed form containing complete information regarding the plant material sold as well as the name and complete address of the purchaser.

(2) The register shall be preserved by the nurseryman for at least ten years after the date of the conclusion of the transaction.

Varieties to be propagated for sale.

16. (1) The varieties propagated for sale shall be those recommended or approved by the Department of Horticulture, Himachal Pradesh.

(2) If a certain variety or varieties imported or evolved by the nurseryman at his own estate or intended for propagation, the full particulars of such varieties shall be shown to and approved by the Director or a Gazetted Officer authorised by the Director in this behalf before sale of the variety in question under a distinct or a separate name.

Power of State Government to prohibit or regulate the bringing in or taking out of the State fruit plants.

17. The State Government may, by notification, prohibit or regulate, subject to such restrictions and conditions as it may impose, the bringing into, or taking out of Himachal Pradesh, otherwise than across a customs frontier as defined by the Central Government, or the transport within the Himachal Pradesh of any fruit plant of un-known pedigree or affected by any infectious or contagious disease or pest as declared by the competent authority.

Penalties

18. (1) If any person contravenes any of the provisions of this Act or any rule made thereunder contravention of which is made punishable under this section or attempts to contravene or abets the contravention of any such provision or rule, he shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

(2) If the person committing an offence under this Act is a company, the company as well as every person incharge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, is a partner in the firm.

19. No court shall take cognizance of an offence punishable under this Act except upon complaint in writing, made by the competent authority or any officer authorised in this behalf by the competent authority by general or special order.

Cognizance of offences, et

20. All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Persons exercising powers under this Act to be public servants.

21. No suit, prosecution or other legal proceeding shall lie against the State Government or against any person for anything which is in good faith done or intended to be done in pursuance of this Act or rule or order made thereunder.

Protection of person acting in good faith

22. (1) The State Government may, by notification, make rules to carry out the purposes of this Act.

Power to make rule

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the conditions to be inserted in licences to be granted to nurseryman and the form of such applications and licences;
- (c) the procedure to be followed by competent authorities in the exercise of their functions under this Act;
- (d) the registers, books of accounts and records to be maintained by licensees and the manner in which and the period for which they shall be maintained;
- (e) the circumstances in which security may be required from licensees and the security furnished by them may be forfeited and the manner in which any sum falling due as a result of such forfeiture may be recovered;
- (f) the efficient conduct, improvement and development of fruit nurseries;
- (g) the detection, inspection, certification, method of transport or destruction of fruit plants in respect of which a notification has been issued under section 17 or of any article which may have been in contact or proximity thereto and the regulation of the powers and duties of the officers who may be appointed in this behalf;
- (h) the procedure to be followed in appeals/revisions under section 8 and 9 and limitation thereof;
- (i) to prescribe pests, diseases and insects of which the nursery plants are required to be kept free;
- (j) the procedure to be followed in conducting inspections of the nurseries.

title, and licence-

tions.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the

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case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Delegation of powers.

23. The State Government may, by notification in the official Gazette, delegate to any officer or authority subordinate to it all or any of its powers under this Act except the power to make rules.

No compensation for suspension or cancellation of licences.

24. Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

Repeal and savings.

25. The Himachal Pradesh Fruit Nurseries Registration Act, 1956 as in force in the areas which comprised in Himachal Pradesh immediately before the 1st November, 1966, and the Punjab Fruit Nurseries Act, 1961, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, are hereby repealed :

Provided that anything done or any action taken (including any licence issued, nursery registered, notification, order or direction issued, any rules made, proceedings commenced or continued) under any of the Acts hereby repealed shall be deemed to have been issued, done or taken under the corresponding provisions of this Act.

Simla-2, the 15th June, 1973

No. 5-8/73 L.R.—The Himachal Pradesh Land Development Bill, 1973 (Bill No. 15 of 1973) after having received the assent of the Governor, Himachal Pradesh, on the 9th June, 1973, under Article 200 of the Constitution of India, is hereby published in the Rajpatra Himachal Pradesh as Act No. 14 of 1973.

JOSEPH DINA NATH,
Deputy Secretary.

THE HIMACHAL PRADESH LAND DEVELOPMENT ACT, 1973

AN
ACT

to provide for the preparation and execution of land development schemes, the reclamation of waste land and the control of private forests and grass land in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Land Development Act, 1973.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “committee” means the District Land Development Committee constituted for the District under section 3;

(b) “owner” in relation to any land means a person having a proprietary right in the land and includes—

(i) a usufructuary mortgagee of such right, and

(ii) a tenant of the land as hereinafter defined;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “reclamation” includes cultivation, afforestation and any other improvement of land;

(e) “State Government” means the Government of Himachal Pradesh; and

(f) “tenant” includes a usufructuary mortgagee of the rights of a tenant.

CHAPTER II

DISTRICT LAND DEVELOPMENT COMMITTEE AND LAND DEVELOPMENT SCHEMES

3. (1) As soon as may be after the commencement of this Act, the State Government may, by notification in the Official Gazette, constitute a District Land Development Committee for each district consisting of the following members, namely:—

Constitu-
tion of the
District
Land Deve-
lopment
Committees

(a) The Deputy Commissioner of the district concerned who shall be the chairman of the committee;

(b) two official members who shall be persons of experience in agriculture or irrigation engineering or forestry, and

(c) two non-official members.

(2) The term of office of the members of the committee shall, unless extended by an order of the State Government notified in the Official Gazette, be five years from the date of notification under sub-section (1):

Provided that the term of office of a member chosen to fill a casual vacancy shall be the unexpired period of the term of the person in whose place he has been appointed.

(3) A member may, at any time by notice in writing to the chairman, resign his office.

(4) The State Government may, by notification, remove any member of the committee—

- (a) if he refuses to act or becomes, in the opinion of the State Government, incapable of acting or has been declared a bankrupt or an insolvent or has been convicted of any such offence or subjugated by a criminal court to any such order as implies, in the opinion of the State Government, a defect of character which unfits him to be a member;
- (b) if he has been declared by notification to be disqualified for employment or has been dismissed from the public service and the reason for disqualification or dismissal is such as implies, in the opinion of the State Government, a defect of character which unfits him to be a member;
- (c) if he has without reasonable cause in the opinion of the State Government, and without permission of the committee absented himself from more than ten consecutive meetings of the committee;
- (d) if, in the opinion of the State Government, he has flagrantly abused his position as a member of the committee; or
- (e) if, being a legal practitioner, he acts or appears in any legal proceedings on behalf of any person against the committee or on behalf of or against the Government where in the opinion of the State Government such action or appearance is contrary to the interests of the committee:

Provided that before the State Government notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned, and he shall be given an opportunity to tender an explanation in writing.

(5) No act done by the committee shall be questioned on the ground merely of the existence of any vacancy, or any defect in the constitution of the committee.

(6) If there is a difference of opinion among the members of the committee regarding any question, the decision of the majority of the members present and voting shall prevail, and in case of equality of votes the chairman shall have a casting vote.

4. (1) The committee may prepare land development schemes providing for one or more of the following matters, namely:—

- (i) preservation and improvement of soil by levelling, terracing and embankment of fields;
- (ii) prevention of soil erosion;
- (iii) improvement of water supply by utilisation of water in rivers, rivulets or springs, tube-wells, boring or construction of wells,

Matters for which Land Development Schemes may provide.

conservation of rain water by constructing dams, or by use of power or any other means;

- (iv) improvement in the methods of cultivation;
- (v) introduction of dry farming methods;
- (vi) supply of seed, improved implements of agriculture, manure and fertilizers;
- (vii) development of horticulture and planting of fruits trees;
- (viii) reclamation of land lying waste through water logging, accumulation of sand, growth of jungle, soil erosion, or any other cause;
- (ix) cultivation of land lying uncultivated owing to the negligence or incapacity or absence of the owner;
- (x) regulation or prohibition of grazing and browsing;
- (xi) control and maintenance of tree-growth;
- (xii) regulation or prohibition of firing of vegetation;
- (xiii) planting or sowing of trees, shrubs and grasses for the purpose of afforesting uncultivable land or providing shelter-beds against wind or sand or for any other purpose;
- (xiv) protection from locusts and other pests;
- (xv) making, improvement and maintenance of village paths and roads; and
- (xvi) any other matter which may be prescribed.

(2) Every scheme prepared under sub-section (1) shall contain the following particulars, namely:—

- (i) the objects of the scheme;
- (ii) details of the area to be covered by the scheme;
- (iii) the work or kind of work to be carried out under the scheme;
- (iv) the agency or agencies through which the work shall be carried out;
- (v) the approximate estimated cost of the scheme;
- (vi) the duties and obligations, financial or other, of the Government as well as of the owner of the area concerned and the manner in which an owner may discharge a part or whole of his duties and financial obligations in the form of labour; and
- (vii) any other particulars which may be prescribed.

5. (1) The State Government may, after the committee has prepared the scheme under section 4,—

- (a) appoint an Inquiry Officer, and
- (b) cause the scheme to be published in the manner prescribed inviting suggestions from persons affected by it and from the Gram Panchayat, if any, of the area to which the scheme relates within such time and in such manner as may be prescribed.

Inquiry into and sanctioning of schemes.

(2) The State Government may, after considering the record of the inquiry and the report of the Inquiry Officer and after consulting the committee concerned, either sanction the scheme with or without modification or reject it.

6. Every scheme sanctioned under section 5 shall be published by the Deputy Commissioner in the prescribed manner and shall come into force on such date as may be specified by him.

Publication of schemes

Power to make regulations.

7. The committee may, by notification in the Official Gazette, make regulations for the purpose of carrying out the objects of the scheme or in respect of any matter supplementary or incidental thereto, and any regulations so made shall be published by the committee in the manner prescribed.

Power to make grant or advance loan.

8. (1) The Deputy Commissioner may grant or advance a loan to any person for carrying out any work under any scheme on such terms and conditions as may be prescribed.

(2) The amount of loan or any instalment thereof or interest thereon which may be due but not repaid in accordance with the terms and conditions of the loan may, without prejudice to any other remedy provided by law, be recovered as arrears of land revenue.

Penalty.

9. (1) In making any scheme or any regulation under section 7 the committee may provide that the contravention of such provision of the scheme or of such regulations as may be specified by it shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

(2) No person shall be prosecuted for any contravention specified in subsection (1) except on complaint in writing by the Deputy Commissioner or any other officer authorised by the State Government in this behalf.

Works to be carried out by Government at owner's expense.

10. (1) Where under the scheme any work is to be carried out on any land at the expense of the owner or owners thereof, and such owner, or any one of such owners, is willing to carry out the work, he may give notice to that effect in writing to the Deputy Commissioner within sixty days of the coming into force of the scheme.

(2) On receipt of such notice the Deputy Commissioner shall furnish the owner with full details of the work and fix the date before which the owner shall carry out the work.

(3) If the owner fails to carry out the work to the satisfaction of the Deputy Commissioner before the date fixed by him or if the owner at any time informs the Deputy Commissioner in writing of his inability to do so, the Deputy Commissioner may get the work carried out by the Gram Panchayat or such other agency as he thinks fit and the expenses incurred in carrying out the work may be recovered from the owner as arrears of land revenue.

(4) Where any work is carried out in pursuance of this section by one or more of several owners, the other owners shall be liable to contribute towards the expenses incurred by him or them such amount as the committee may determine.

Contribution by owners of other land benefiting by work.

11. Where under the scheme any work is carried out by the owner or by the Deputy Commissioner at the expense of the owner and the work is in the opinion of the committee likely to benefit any other land in the area covered by the scheme, the owners of such land shall be liable to contribute towards the expenses of carrying out the work, such amount as the committee may determine:

Provided that the State Government may remit the whole or any part of the contribution so payable in respect of any work carried out on land belonging to the Government.

12. The amount of contribution determined by the committee under sub-section (4) of section 10 or section 11 shall be paid by the persons concerned within such time as may be specified by the committee and in default of such payment, shall be recovered from those persons as arrears of land revenue and paid to the persons entitled to the contribution.

Recovery
contribu-
tions.

13. Notwithstanding anything contained in the scheme, the committee may direct that the work to be carried out or remaining to be carried out on any land by the owners thereof shall be carried out by the Deputy Commissioner and that the whole or any specified part of the expenses of carrying out the work shall be recovered as arrears of land revenue from the owners of the land in such proportion at such times, and in such instalments as the committee may fix having regard to the amount to be recovered and the nature and extent of the rights of the owners in the land.

Power
carry out
work or
recover
expenses from
owners.

14. (1) On the completion of any work under the scheme, Deputy Commissioner shall prepare—

Statement
and map
showing
details of
work.

(a) a statement in such form, and containing such particulars, as may be prescribed, and

(b) a map showing the location and other material details of the work.

(2) Every statement and map so prepared shall, on approval by the committee, form part of the settlement record, or as the case may be, the record of rights of the estates specified in the statement and the said record shall wherever necessary be corrected in accordance with the statement.

15. If any person shown in a statement prepared under section 14 as liable to maintain and keep in repair the work, fails to effect such repairs or renewals, or to do so within such time, as the Deputy Commissioner may, by order specify, the Deputy Commissioner may get the repairs or renewals done by Gram Panchayat or such other agency as he thinks fit, and the expenses incurred by him in so doing shall be recovered from the said person as arrears of land revenue.

Repairs and
renewals
work.

16. (1) Any member, officer, subordinate or workman of the committee or any other person authorised by the Deputy Commissioner in this behalf may, after giving such notice as may be prescribed to the owner in possession of any land, enter upon and survey the land, or do any act, or carry out any work in or on the land for the purpose of preparing, inquiring into or executing any land development scheme under the provisions of this chapter.

Rights
entry etc

60. (2) Every such member, officer, subordinate, workman or person shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

17. Any person aggrieved by—

Appeals.

(a) a determination of the committee under sub-section (4) of section 10 or section 11; or

(b) the making of any entry or the failure to make an entry, in a statement prepared under section 14; or

(c) the order of the Deputy Commissioner under section 15;

may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority, and notwithstanding anything contained in any law to

the contrary, the decision of such authority, and where no appeal is preferred, the determination, order or statement aforesaid shall be final and shall not be called in question in any court.

power of
control.

18. The State Government may from time to time call for any report or give any direction to the committee and the committee shall submit such report and carry out such direction.

CHAPTER III RECLAMATION OF WASTE LAND

definitions.

19. In this chapter—

- (a) "date of taking possession" means the date on which temporary possession of the land is taken on behalf of the Government under section 20;
- (b) "waste land" means any land lying waste through water logging, accumulation of sand, growth of jungle, soil erosion or any other cause, or lying uncultivated for not less than three consecutive years.

order for
taking po-
session of
waste land.

20. (1) If the committee is satisfied that for purposes of executing any scheme of reclamation of waste land sanctioned under section 5, it is necessary that temporary possession of any waste land should be taken, it may, by order in writing, direct the Deputy Commissioner to take temporary possession of such land on behalf of the Government on such date as may be specified in that order.

(2) The order shall be made in such form and brought to the notice of the owner of the land in such manner as may be prescribed.

(3) On the date specified in the order, the Deputy Commissioner or any officer authorised by him shall enter upon and take possession of the land on behalf of the Government.

arrange-
ment for
reclamation.

21. When the possession of the land has been taken the Deputy Commissioner may, with the approval of the committee arrange for its reclamation—

- (a) by retaining it under his management for such period as he thinks fit; or
- (b) by settling it for such period and on such terms as may be fixed by the committee with the person who, on the date of taking possession, was in lawful possession of the land, or was entitled to such possession, or, if such person is dead, with his successor-in-interest; or
- (c) by a combination of the methods aforesaid:

Provided that the total period for which the land is retained or settled under this section shall not exceed ten years.

aim for
years of
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be enforced
against Go-
vernment
m.
determination
of posses-
sion on
completion.

22. No claim of the landlord to any arrears of rent accrued or due in respect of the land for the period prior to the date of taking possession shall thereafter be enforced by any court, whether in execution of a decree or otherwise, against the Government or against any person holding the land under the Government or by the issue of any process against the land.

23. (1) When the reclamation of the land is in the opinion of the Deputy Commissioner complete and, in any case before the expiry of the period of ten years from the date of taking possession, the Deputy Commissioner shall, after making an inquiry in the prescribed manner and by order in writing,

- (a) declare that possession of the land shall be restored on such date as may be specified in the order to the owner, who on the date of taking possession, was in lawful possession of the land, or was entitled to such possession or if he is dead to his successor-in-interest;
- (b) determine the person to whom possession is to be so restored;
- (c) where such person is a tenant, determine the rent payable on account of the use or occupation of the land; and
- (d) where the land or any part thereof has been afforested, regulate the cutting of trees on such land.

(2) On the date specified in the said order, possession of land shall be deemed to have been delivered by the Government to the person determined under clause (b) of sub-section (1).

(3) The delivery of possession of the land to the person determined under clause (b) of sub-section (1) shall be final and in full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any right in respect of the land to which any other person may be entitled, by due process of law, to enforce against the person to whom the possession of the land has been so delivered.

24. (1) As soon as may be after the date of taking possession of the land, the Deputy Commissioner shall make an inquiry in the prescribed manner and determine—

Compensation for period of possession

- (a) in respect of any land which on the said date was in the occupation of a tenant—
 - (i) the annual rent payable by him, and
 - (ii) the average net annual income, if any, after deducting rent, derived by him during the three years immediately preceding the said date; and
- (b) in respect of any other land, the average net annual income, if any, without deducting any land revenue payable, derived by the owner during the three years immediately preceding the said date.

(2) There shall be payable by the Government as compensation on each anniversary of the date of taking possession until the date referred to in sub-section (2) of section 23—

- (a) in respect of such land as is referred to in clause (a) of sub-section (1), the amount determined under sub-clause (i) thereof to the landlord and the amount determined under sub-clause (ii) thereof to the tenant; and
- (b) in respect of any other land, the amount determined under clause (b) of sub-section (1) to the owner.

(3) For the purposes of this section "land-lord" means the person under whom the tenant holds land and to whom the tenant is or but for a special contract would be liable to pay rent for that land, and any reference to the owner, land-lord or tenant shall be deemed to include the predecessors and successors-in-interest of the owner, land-lord or tenant.

25. The committee shall maintain, in such form and in accordance with such rules as may be prescribed an account of all receipts and payments by the Government in respect of the land and any owner of or other person having an interest in the land may, on payment of a fee of fifty-paise, inspect the account.

Accounts.

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26. (1) The net expenditure incurred by the Government on the reclamation of the land under the provisions of this chapter or such part of that expenditure as the State Government may, by general or special order, direct together with interest calculated at the prescribed rates and in the prescribed manner shall be recovered as arrears of land revenue from the person to whom possession of the land is delivered by the Government under sub-section (2) of section 23.

(2) The amount to be recovered under sub-section (1) from any person shall be decided by the committee.

ppeals

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27. Any person aggrieved by an order under section 20, section 23, section 24 or sub-section (2) of section 26 of the committee or the Deputy Commissioner as the case may be, may, within the prescribed time and in the prescribed manner, appeal to the State Government, and the decision of the State Government on such appeal, and where no appeal is preferred the order aforesaid, shall be final and shall not be called in question in any court.

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28. The taking and retaining of possession of any land on behalf of the Government under the provisions of this chapter shall not affect the liability of any person for the payment of land revenue, rate or cess in respect of the land for any period whether before or after the date of taking possession.

CHAPTER IV

SUPPLEMENTARY

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ake rules.

29. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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- (a) the conduct of business by the committee and the procedure to be followed at meetings of the committee;
- (b) the procedure to be followed for the preparation of the schemes;
- (c) the procedure to be followed by Inquiry Officer under section 5;
- (d) the manner of publication under sections 5, 6 and 7;
- (e) the principles on which the amounts of contribution are to be determined by the committee under sub-section (4) of section 10 or section 11;
- (f) the form of the statement under section 14 and the particulars to be stated therein;
- (g) the manner of giving notice under sub-section (1) of section 16;
- (h) the authority to whom appeal may lie and the time and manner of such appeal under section 17;
- (i) the form of notice under section 20 and the manner of its service;
- (j) the manner of inquiry under section 23 and sub-section (1) of section 24;
- (k) the form and method of maintaining accounts under section 25;
- (l) the rate of interest and the method of its calculation under sub-section (1) of section 26;
- (m) the time and manner of appeal under section 27; and
- (n) any other matter which may be prescribed.

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(3) Every rule under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in

two or more successive sessions and if before the expiry of the session in which it is laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. (1) No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

Protection of action taken under the Act.

(2) Save as otherwise expressly provided by or under this Act, no suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

12 of 1954

23 of 1963

22 of 1949

21 of 1959

31 of 1966

31. The Himachal Pradesh Land Development Act, 1954 as applicable in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, the Land Improvement Schemes Act, 1963, the East Punjab Reclamation of Land Act, 1949, the Punjab Reclamation of Land Act, 1959 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 are hereby repealed:

Repeal and savings.

Provided that any thing done, or any action taken or proceedings commenced or continued under the Acts hereby repealed shall be deemed to have been done, taken, commenced or continued under the corresponding provisions of this Act.

Simla-2, the 15th June, 1973

No. 6-51/69-L.R.—The Himachal Pradesh Tractor Cultivation (Recovery of charges), Bill, 1972 (Bill No. 19 of 1972) after haveing received the assent of the Governor, Himachal Pradesh, on the 9th June, 1973, under Article 200 of the Constitution of India, is hereby published in the Rajpatra Himachal Pradesh as Act No. 16 of 1973.

JOSEPH DINA NATH,
Deputy Secretary.

**THE HIMACHAL PRADESH TRACTOR CULTIVATION
(RECOVERY OF CHARGES) ACT, 1972**

AN

ACT

to provide for the cultivation of certain areas by means of tractors by the Department of Agriculture, Himachal Pradesh, and for the recovery of charges in respect of such cultivation.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Tractor Cultivation (Recovery of Charges) Act, 1973.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) “cultivator” means a person who actually cultivates the soil himself or through members of his household, or gets it cultivated by hired labour;

(b) “Director” means the Director of Agriculture, Himachal Pradesh;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “tractor” means a tractor owned by or worked under the control of the Department of Agriculture, Himachal Pradesh;

(e) “tractor cultivation” includes any agricultural operation such as ploughing, harrowing, discing, sowing or harvesting which may be performed by tractors;

(f) “tractor cultivation charges” means the charges recoverable on account of tractor cultivation.

PART II

TRACTOR CULTIVATION

3. (1) Any cultivator may make an application in writing in prescribed form to the Director for having any agricultural operation performed by tractors on his land or any part of it.

Applicator
for tractor
cultivation

(2) Such application shall be accompanied by a deposit, made in the prescribed manner, of full tractor cultivation charges, according to the prescribed scale:

Provided that in exceptional cases, Director may require only such part as he may specify of the full cultivation charges to be deposited with the application.

4. (1) If the Director accepts an application made under section 3 he shall take all steps necessary in connection therewith.

(2) In case such application is rejected, any deposit made with the application shall be refunded forthwith.

5. As soon as may be after the tractor cultivation has been completed, and the amount has fallen due, the Director shall, in respect of such cultivation serve on the cultivator a notice of demand specifying the amount due from him after taking into account the deposit, if any, made by him.

6. A cultivator, whose land has been brought under tractor cultivation on his application, shall within one month of the date of the receipt of notice of demand under section 5 pay in the prescribed manner the sums specified in such notice.

7. If any cultivator fails to make payment as specified in section 6, the sum due from him shall be recoverable as arrears of land revenue.

PART III

GENERAL

8. (1) The State Government may from time to time by notification make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules regulating or determining all or any of the following matters:—

- (a) the mode of making a deposit under sub-section (2) of section 3;
- (b) the scale of tractor cultivation charges; and
- (c) the manner of making payment under section 6.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. The East Punjab Tractor Cultivation (Recovery of Charges) Act, 1949, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything done or any action taken under the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.